

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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UTICA NATIONAL INSURANCE CO. OF OHIO,
as subrogee of VOORHEESVILLE CENTRAL
SCHOOL DISTRICT

Civil Action No. 6:22-CV-1231
(BKS/PJE)

Plaintiff,

**REPLY MEMORANDUM OF
LAW IN SUPPORT OF MOTION
TO COMPEL**

-against-

PVI INDUSTRIES, LLC,

and,

WATTS HEATING AND
HOT WATER SOLUTIONS, LLC, d/b/a PVI
INDUSTRIES

and,

XYLEM, INC. d/b/a BELL & GOSSETT

Defendants.
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Defendants, Watts Heating and Hot Water Solutions, LLC, incorrectly sued as Watts Heating and Hot Water Solutions d/b/a PVI Industries, and as PVI Industries, LLC (“PVI”), respectfully submit this Memorandum of Law in Reply to Defendant Xylem, Inc. d/b/a Bell & Gossett (“Xylem”)’s Opposition to Motion to Compel, dated March 10, 2025 (ECF No. 67) (“Opposition” or “Opp.”), pursuant to the Court’s authorization at the Text Minute Entry dated March 11, 2025.

PVI’s Motion to Compel sought documents related to shaft seal failures of any PL-75 motor pump, where Xylem had limited its production to the exact model of pump that is sold only to PVI and refused to provide any information regarding failures of other similar PL-75 models. In its Opposition, Xylem justifies this refusal by distinguishing the “motor pump” supplied to PVI

from all other PL-75 pumps that include a volute, which Xylem calls “circulator pumps.” Opp. at 2-3. Xylem then argues that it *did* comply with PVI’s requests related to “motor pumps.” *Id.* at 7-8. All PL-75 pumps include a motor regardless of whether they include a volute.¹ Xylem’s characterization of PVI’s request for documents related to “motor pumps” as limited to the specific pumps purchased by PVI is merely a contortion designed to skirt its discovery obligations. Documents related to PL-75 pumps Xylem sold to other customers are plainly responsive to PVI’s requests.

Xylem further argues that failures of PL-75 pumps sold to other entities are irrelevant because “the failure mode in this litigation is specific to PVI/Watts’ design application of the PL-75 motor pump (i.e., without volute).” Opp. at 9. This is incorrect for two reasons. First, even if failures related to PL-75 pumps with other design applications, e.g., with volutes, are not relevant to Xylem’s liability in this case, they are squarely relevant to PVI’s alleged liability. Plaintiff claims that PVI’s water heater design was defective, which requires proof of a safer alternative design. See *S.F. v. Archer Daniels Midland Co.*, 594 Fed. Appx. 11, 12. As Xylem’s Opposition emphasizes, both its and plaintiff’s experts have opined that PVI’s use of a volute-less pump at a particular orientation and location caused the shaft seal failure at issue. Opp. at 6. Discovering whether other pump designs, such as those with volutes, experience similar failures is therefore essential to determining whether there was a safer alternative design available to PVI.

Second, shaft seal failures of PL-75 pumps are relevant regardless of whether those pumps shared the exact design of the pumps PVI purchased. With or without a volute, the entire PL-75 series of pumps uses the same motors, seals, and impellers. See Affidavit, at ¶ 3. Xylem’s focus

¹ Xylem appears to conflate PVI witness Michael Hubbard’s distinction between the “stirring pump[s]” used on PVI products and “circulating pump[s]” with the use of “motor pump” in PVI’s discovery requests. Again, there is no basis for such conflation as either type uses a motor.

on stud failures specific to PVI's flange adapter is a red herring; Xylem itself acknowledges that all parties agree that the stud failures were related to water leaking past the pump's mechanical seal and damaging its impeller shaft. Opp. at 6. What's more, Xylem is aware that the seals may be subject to failure, as it developed a product to address seal failures and sells a Seal Kit for the PL-75 series of pumps, Part No. 189144LF. See Affidavit, at ¶ 4. Documents related to other PL-75 failures involving the same internal components are therefore relevant, and PVI has demonstrated that other PL-75 pumps are sufficiently similar at this stage to warrant related discovery.²

WHEREFORE, PVI respectfully requests this Court GRANT its Motion to Compel, and order Xylem to provide all responsive records in their possession, custody, or control forthwith.

² PVI does not have to prove substantial similarity at this stage of discovery. See *Dukuray v. Sensio, Inc.*, Docket No. 24-cv-1151(JSR), 2024 U.S. Dist. LEXIS 113624, at *4 (S.D.N.Y. June 27, 2024). Discovery is allowable where the circumstances are similar enough, which is a lower standard than admissibility at trial, which is substantially similar. See *Cohalan v. Genie Industries*, 276 F.R.D. 161, 166 (S.D.N.Y. 2011) (relevance during discovery is an "extremely broad concept") (internal citation omitted).

Dated: March 14, 2025
Rocky Hill, Connecticut

GOLDBERG SEGALLA LLP

By: /s/ Joshua Milrad (Bar Roll No 510966)

Joshua L. Milrad, Esq.

Bar Roll. No. 510966

Attorneys for Defendants

PVI INDUSTRIES, LLC and

WATTS HEATING AND HOT WATER

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

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UTICA NATIONAL INSURANCE CO. OF OHIO,
as subrogee of VOORHEESVILLE CENTRAL
SCHOOL DISTRICT

Civil Action No. 6:22-CV-1231
(BKS/PJE)

Plaintiff,

**AFFIRMATION OF MICHAEL
HUBBARD**

-against-

PVI INDUSTRIES, LLC,

and,

WATTS HEATING AND
HOT WATER SOLUTIONS, LLC, d/b/a PVI
INDUSTRIES

and,

XYLEM, INC. d/b/a BELL & GOSSETT

Defendants.
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I, Michael Hubbard, hereby declare under penalty of perjury pursuant to 28 U.S.C. § 1746
that that the following is true and correct:


1. I am the Senior Director of Research and Development at Watts Heating and Hot Water Solutions, LLC, incorrectly sued as Watts Heating and Hot Water Solutions d/b/a PVI Industries, and as PVI Industries, LLC ("PVI"). I am responsible for design and development of new technologies and their integration into new products.
2. This Affidavit is submitted in support of PVI's Reply to Xylem's Opposition.
3. To the best of my knowledge, with or without a volute, the PL-75 series of pumps manufactured by Xylem utilize the same model motors, seals, and impellers.

4. Xylem sells a Seal Repair Kit for the PL-75 series of pump. Attached as Exhibit A to this Affidavit is to the best of my knowledge a true and accurate copy of page nine of the Xylem Service Parts Catalog (HS-300H-PL), which includes the Seal Repair Kit for the PL-75, Part No. 189144LF.

5. The same Seal Repair Kit used for PL-75 “circulator pumps” (As described by Xylem.), is also used for PL-75 “motor pumps” (As described by Xylem.).

I declare under penalty of perjury that the foregoing is true and correct.

Executed on the 14 day of March, 2025



Michael Hubbard

Exhibit A

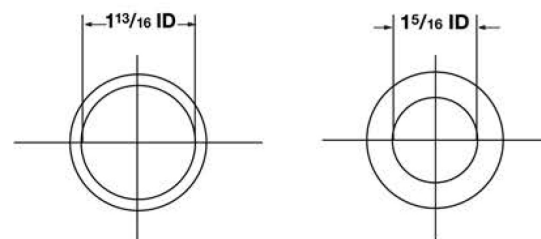
PARTS FOR LITTLE RED & SERIES PL CIRCULATORS

LITTLE RED

ITEM NO.	DESCRIPTION	MODEL LR-20BF	MODEL LR-20B	MODEL LR-12 & LR-12BF	MODEL LR-12B	MODEL LR-15B
	Body	N/A	N/A	N/A	N/A	N/A
	Impeller	P15627	P15627	P15629	P15629	P15627
	Capacitor 115V	N/A	N/A	M15784	M15784	M15784
	Capacitor 110V	N/A	N/A	N/A	N/A	N/A
	Capacitor 220V	N/A	N/A	M15784	M15784	M15788
	Flange Gasket Set-Ring Type 1 ¹³ / ₁₆ " ID (2 Req'd)	118368	N/A	118368	N/A	N/A
	Fastener Pack For Above*	P64910	N/A	P64910	N/A	N/A
	Flange Gasket – Ring Type 1 ⁵ / ₁₆ " ID (2 Req'd)	P15692	P15692	P15692	P15692	P15692
	Fastener Pack for Above*	P15696	P15696	P15696	P15696	P15696
	Flange (3/4")	P00739	P00789	P00739	P00789	P00789
	Flange (1")	P00792	P00836	P00792	P00836	P00836
	Flange (1 1/4")	P03250	P00837	P03250	P00837	P00837
	Flange (1 1/2")	P03430	P2000085	P03430	P2000085	P2000085
24	Seal Repair Kit Consisting of:	N/A	N/A	N/A	N/A	N/A
25	Seal & Cushion Assembly	N/A	N/A	N/A	N/A	N/A
26	Seat Cup	P15683	P15683	P15683	P15683	P15683
27	Ceramic Insert	P70712	P70712	P70712	P70712	P70712
9	Impeller Nut	P15697	P15697	P15697	P15697	P15697
28	Impeller Tube	P15698	P15698	P15698	P15698	P15698
29	Oil Tube	P15775	P15775	P15775	P15775	P15775
2	Body Gasket	P15691	P15691	P15691	P15691	P15691
30	Assembly Tool	P15210	P15210	P15210	P15210	P15210



RING GASKETS



	CAST IRON MODELS (PART NUMBER)									BRONZE MODELS (PART NUMBER)									
	PL-30 (1BL012)	PL-36 (1BL001)	PL-45 (1BL002)	PL-50 (1BL016)	PL-55 (1BL032)	PL-75 (1BL034)	PL-100 (1BL134)	PL-130/2 (1BL063)	PL-130/3 (1BL070)	PL-30B (1BL013)	PL-36B (1BL003)	PL-45B (1BL004)	PL-50B (1BL017)	PL-55B (1BL068)	PL-75B (1BL035)	PL-100 (1BL136LF)	PL-130/2B (1BL065)	PL-130/3B (1BL072)	
DESCRIPTION																			
Seal Kit	189144LF				189577LF	189144LF	189174LF			189144LF				89577LF	189144LF	189174LF			
Body Gasket	P15691				P83025	P15691				P15691				P83025	P15691				
Impeller	189170LF	189171LF	189169LF	189172LF	189169LF	P2004544	189173LF			189170LF	189171LF	189169LF	189172LF	189169LF	P2004544	189173LF			
Fastener Package*	P64910	P64940			P83031	P65031	P64940	P65031	P09540	P64910	P64940			P83031	P65031	P64940	P65031	P09540	
Flange Gasket Set	118368	118373			118368	118378	118373	118378	118129	118368	118373			118368	118378	118373	118378	118129	
Flanges	CAST IRON									BRONZE									
Flange (3/4")	P00739	NONE			P00739	NONE				P00789	NONE			P00789	NONE				
Flange (1")	P00792	P00802			P00792	NONE	P00802	NONE		P00836	P00804			P00836	NONE	P00804	NONE		
Flange (1 1/4")	P03250	P03300			P03250	NONE	P03300	NONE		P00837	P2000088			P00837	NONE	P2000088	NONE		
Flange (1 1/2")	P03430	P03410			P03430	NONE	P03410	NONE		P2000085	P2000090			P2000085	NONE	P2000090	NONE		
Flange (2)	NONE				F14200	NONE	F14200	NONE		NONE				P2000078			NONE	P2000078	NONE
Flange (2 1/2")	NONE				NONE				P03560	NONE				NONE				P2000093	
Flange (3")	NONE				NONE				F74000	NONE				NONE				P2000081	

*Includes flange gaskets. N/A - Not Available -Factory recommended spare part.